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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,028	08/26/2003	Jesse Lee Pfohl	16465-US	3488

7590

06/07/2004

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EXAMINER

LERNER, AVRAHAM H

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 06/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/648,028	PFOHL ET AL.	
	Examiner	Art Unit	
	Avraham Lerner	3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 11-18 is/are rejected.
- 7) ☒ Claim(s) 9, 10, 19 and 20 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because throughout the specification, including the title, abstract, disclosure and claims, the word "complementary" has been misspelled "complimentary".

Appropriate correction of each occurrence is required.

Claim Objections

2. Claims 1-20 are objected to because of the following informalities: as recited above, each occurrence of "complimentary" should be changed to read "complementary". Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4, 7, 11-14, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Aoki (U.S. Patent No. 5,701,928).

Aoki discloses a vehicle comprising all elements as claimed, including a frame, ground engaging wheels; an integrated fuel tank including a filler tube (38) and a "counterweight" (rear portion of the vehicle/frame), as broadly recited, having a complementary portion (e.g. 8) with a

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hole of sufficient size to allow passage of the filler tube, the tank and counterweight being arranged to allow the filler tube to pass through and be surrounded by the complementary portion; a metal cradle (4) supporting and surrounding the lower portions of the fuel tank and which holds the fuel tank in place.

5. Claims 1, 5, 6, 11, 15, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Clare et al. (U.S. Patent Application Publication No. 2001/0038218 A1).

Clare et al. discloses a vehicle comprising all elements as claimed, including a frame, ground engaging wheels; an integrated fuel tank (169) including a filler tube (168) and a "counterweight" (rear portion of the vehicle/frame), as broadly recited, having a complementary portion (see especially Fig. 15) with a hole of sufficient size to allow passage of the filler tube, the tank and counterweight being arranged to allow the filler tube to pass through and be surrounded by the complementary portion; a hinged door (168') forming a part of the complementary portion of the counterweight, and wherein the hinged door has a shape that conforms to a shape of adjacent portions of the counterweight when the hinged door is in a closed position, as is customary in the art of vehicle fuel doors.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 8 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clare et al. in view of Kloess et al. (U.S. Patent No. 6,357,618 B1).

Clare et al. discloses a vehicle having all elements as claimed as recited above in detail except for teaching that the fuel tank is made of molded plastic.

Kloess et al. discloses that it is known in the art to provide a fuel tank (10) of molded plastic (see column 5, lines 31-32).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the vehicle of Clare et al. with the molded plastic fuel tank of Kloess et al. because such a modification would have provided the vehicle with a lighter and dent/corrosion resistant fuel tank and therefore would have improved the operating lifetime and the vehicle as a whole.

8. Claims 2-4, 7, 12-14, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clare et al. in view of Gaisford et al. (U.S. Patent No. 5,673,940).

Clare et al. discloses a vehicle having all elements as claimed as recited above in detail except for explicitly disclosing that the fuel tank is supported by a metal cradle which holds the tank in place.

Gaisford et al. discloses that it is known in the art to provide a vehicle with a metal cradle supporting and surrounding lower portions of a fuel tank.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the fuel tank of Clare et al. with a cradle as taught by Gaisford et al. in order to ensure that the fuel tank is strongly and securely supported. Such a modification

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would have provided the vehicle with a known reliable means of securing a fuel tank, improving the safety of the vehicle, and therefore would have been obvious to one of ordinary skill.

Allowable Subject Matter

9. Claims 9, 10, 19, and 20 would be allowable if rewritten to overcome the informality objections set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kim et al. (U.S. Patent No. 6,637,706 B2), Hill et al. (U.S. Patent No. 5,330,031), Grooss (U.S. Patent No. 4,149,733), Sakyo et al. (U.S. Patent No. 6,568,746 B2), Miki (JP Patent No. 5—330458), and JP Patent No. 2000-120439 disclose vehicle fuel tank and counterweight assemblies.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Avraham Lerner whose telephone number is (703) 308-0423. The examiner can normally be reached on M-F (8:15-5:45) first Wednesday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (703) 308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AVRAHAM LERNER
PRIMARY EXAMINER

A. Lerner 5/25/04

May 25, 2004